IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11645 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUNIL ICE & COLD STORAGE

Versus

GEB

Appearance:

1. Special Civil Application No. 11645 of 2004

MR RAJESH K SAVJANI for Petitioner No. 1

DS AFF.NOT FILED (N) for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 25/10/2004

ORAL JUDGEMENT

1. The petitioner herein has preferred this petition in order to quash and set aside the order dated

12/07/2004, passed by the Appellate Committee of the respondent Board in Appeal No.43 of 2004, and to direct the respondent Committee to hear and decide the said Appeal afresh by according an opportunity of hearing to the petitioner.

2. The electrical installation of the petitioner Company was checked by the officials of the respondent Board. As they found the installation tampered, the electric connection of the petitioner's unit was disconnected. A supplementary bill for an amount of Rs.15,88,723.13 was issued to the petitioner Company. The petitioner Company deposited 20 per cent of the supplementary bill and challenged the action of issuance of the bill before the Appellate Committee of the respondent Board. The said appeal was fixed for hearing before the Appellate Committee.

3. On the date of hearing, a representative of the petitioner Company submitted an application for adjournment, as the proprietor of the petitioner Company was out of India. By order dated 12/07/2004, the Appellate Committee rejected the application for adjournment and confirmed the charges levelled against the petitioner Company. Hence, this petition.

4. I have heard learned advocate for the petitioner and perused the relevant documents on record. On going through the averments made in the petition, it is clear that the impugned order was passed without hearing the petitioner. The petitioner was not given an opportunity by the Appellate Committee to present his case before them. Therefore, the order of the Appellate Committee is required to be quashed, on the ground of violation of the principle of natural justice.

5. In the result, the order of the Appellate Committee dated 12/07/2004 passed in Appeal No.43 of 2004 is quashed and set aside. The petitioner is directed to approach the Appellate Committee of the respondent Board, within a period of two weeks from today, for getting his appeal decided afresh. The Appellate Committee shall decide the said appeal of the petitioner afresh, within a period of two months from the date when the petitioner first appears before the said Committee, after giving opportunity to the petitioner of being heard. The Court has passed the above order only on the ground that the petitioner was not heard before the impugned order was passed.

6. The Appellate Committee shall not be influenced

by the fact that this Court has quashed its earlier order and shall decide the appeal afresh, after hearing the petitioner. If the electricity connection of the petitioner was disconnected on the ground that the appeal preferred by the petitioner was dismissed, then it shall be reconnected on payment of reconnection charges. If the regular payment is not made by the petitioner, the respondent Board shall be at liberty to take appropriate action against the petitioner. The petitioner Company shall pay the respondent Board the cost of this petition quantified at Rs.1500/-. With the above directions, the petition is allowed. Rule is made absolute accordingly. Direct service permitted.

(K. S. Jhaveri, J.)

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